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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,988	11/18/2003	James J. Fitzgibbon	5569/79076	4889
22242 7590 01/23/2008 FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			EXAMINER HOLLOWAY III, EDWIN C	
			ART UNIT 2612	PAPER NUMBER
			MAIL DATE 01/23/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/715,988

Applicant(s)

FITZGIBBON ET AL.

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,7,8,11,12,14,17,18 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4, 7-8, 11-12,14, 17-18 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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EXAMINER'S RESPONSE

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11-1-07 has been entered. Claims 1-2, 4, 7-8, 11-12, 14, 17-18 and 21 are pending. The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that the claims are unpatentable for the reasons set forth in this Office action:

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

3. Claim 4 is objected to because of the following informalities: The phrase "comprising an wherein" should be changed to --wherein--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 1-2, 4 and 7-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written

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description requirement.

The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has not identified support for the amended claims in the specification as originally filed, nor has applicant stated that no new matter has been added by the amendment. Support is lacking for at least "wherein the receipt of the close signal from the close button automatically causes the controller to issue a close barrier signal at the output in order to close the barrier without the need to authenticate any user authorization code" in claim 1 because "without authentication" is contradicted by claims 8 requiring RF ID input that is considered to be authentication.

Although no "housing" is described in applicant's written description, this is considered to refer to the keypad. If some other housing is intended, then applicant should particularly point out support in the original specification.

Applicant should specifically point out support in the original disclosure for the new or amended claims. See MPEP 714.02 and 2163.06.

Claim Rejections - 35 USC § 102 & 103

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5. Claims 1-2, 4, 8, 11-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaplan (US 4408251).

Regarding claims 1 and 11, Kaplan discloses an entry control system (100) for permitting authorized users to access a controlled area by moving a barrier, comprising:

a push-button switch 38 generating a coded electrical signal when actuated by a user (col. 4, lines 47-61) and the button operating as a close button generating a close signal (col. 10 lines 56-63);

an entry request device (keyboard 20, col. 4, lines 47-61) for accepting a user authorization code (coded signal sequence, col. 5 lines 9-26);

a controller 22 operably coupled to the entry request device and the close button having an output (fig. 1, col. 5 lines 9-26),

such that the controller receives and authenticates the authorization code (col. 5 lines 9-26) and wherein the close button and the entry request device are disposed in a housing (keyboard housing mounted on door jam in fig 1 and col. 4 lines 47-61, and the receipt of the close signal from the close button automatically causes the controller to issue a close barrier signal at the output in order to close the barrier without the need to authenticate any user authorization code (col. 10 lines

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56-63).

Kaplan discloses in col. 10 lines 56-63 that pressing single button may be sufficient to close the door, while pressing a sequence of at least three button inputs is required to authenticate the user to open the door. The single button for closing the door is a close button without authentication as interpreted in light of applicant's disclosure (pg. 9 lines 19-34 and col. 11 lines 3-18).

Regarding claims 2 and 12, a barrier operator (motor 28) communicatively coupled to the controller at the output, the barrier operator receiving the close barrier signal is disclosed in col. 5 lines 9-26.

Regarding claims 4 and 14, the entry request device is a small keyboard (20, col. 4 lines 39-61) also called a keypad.

Regarding claim 8, a detector (radio receiver 32) for detecting an RF-ID (radio signal), and wherein the close barrier signal is not transmitted unless the controller detects an RF-ID (col. 5 lines 27-37).

7. Claims 7 and 17-18 are ejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan (US 4408251) as applied above in combination with Matsuoka (US 4365250).

Regarding claims 7 and 17-18, Kaplan does not expressly disclose the limitation of wherein the close button changes

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function after a predetermined time period.

Matsuoka discloses an analogous art garage door operation control apparatus wherein the close button changes function after a predetermined time period. Operation of a command changes function from downward movement (302, close) to stationary (303, stop) in response to a sequence of operation command inputs (col. 4 lines 44-64). The operation command may be input by a pushbutton switch with a time delay TM4 between each command (col. 8 lines 3-33). Therefore, the function changes after time TM4. This allows manual stopping and reversing direction of the door. Such operation may be provided to for safety.

Regarding claims 7 and 17-17, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Kaplan changing the button function from close/down to stop after a time period as disclosed in Matsuoka to allow stopping the door for safety and/or for partial closing.

7. Claims 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan (US 4408251) as applied above in combination with Ligman (US 4206491) or Lee (US 4369399) or Apple (US 4305060).

Regarding claim 21, Kaplan does not expressly disclose the

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limitation wherein the generation of the close barrier signals is delayed for a predetermined time after the actuation of the close button.

Ligman discloses an analogous art entry system that may be used with garage door operation (col. 8 lines 10-12) wherein a debounce delay 106 is provide between user input and generation of a control signal to prevent false input due to low power or noisy signal. See fig. 8 col. 7 lines 9-35.

Lee discloses an analogous art garage door controller with debounce eliminator 148 connected to button 110 that provides a delay as in Ligman. see fig. 10 and col. 11 lines 51-62.

Apple (US 4305060) discloses an analogous art garage door operator where a delay is provided to allow comparison of a plurality of input codes so that a plurality of matches are required and a limited number of mismatches are allowed before a control signal is output. This maintains security while allowing for interference. See the abstract and col. 2 line 60 - col. 3 line 10.

Regarding claim 21, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Kaplan the claimed delay in view of the delay in Ligman, Lee or Apple to avoid false input due to low power, noise or interference.

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Response to Arguments

6. Applicant's arguments with respect to claims 1-2, 4, 7-8, 11-12, 14, 17-18 and 21 have been considered but are not persuasive and/or are moot in view of the new ground(s) of rejection.

Applicant argues that claim 8 has been canceled, but the claim has not been canceled. Therefore the 112 rejection is not withdrawn.

In response to the new limitation of a housing, a new rejection has been made relying on Kaplan to disclose a keyboard/keypad in a single housing with a sequence of three or more button inputs to authorize a user for opening the door and single button input to close the door.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Zimmerman, can be reached on (571) 272-3059.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free).

EH

1/17/08

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PRIMARY EXAMINER

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